Datatreasury Corporation v. Wells Fargo & Company et al Doc. 664

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORPORTION	§	
Plaintiff/Counter-Defendant	§	
	§	
vs.	§	No. 2:06cv72 (DF)
	§	Jury Trial Demanded
WELLS FARGO & COMPANY;	§	
WELLS FARGO BANK, NATIONAL	§	
ASSOCIATION	§	
Defendants/Counter-Plaintiff	§	

DATATREASURY'S ANSWER TO UNION BANK OF CALIFORNIA, NATIONAL ASSOCIATION'S FIRST AMENDED COUNTERCLAIMS

Plaintiff/Counter-Defendant DataTreasury Corporation hereby files its Answer to Union Bank of California, N.A.'s ("UBoC") First Amended Counterclaims to Plaintiff's First Amended Complaint for Patent Infringement and in support thereof, states as follows:

JURISDICTION AND VENUE

1. Plaintiff/Counter-Defendant admits the allegations contained in paragraphs 101 through 105 of UBoC's First Amended Counterclaim.

THE PARTIES

2. Plaintiff/Counter-Defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 106 of UBoC's First Amended Counterclaim.

3. Plaintiff/Counter-Defendant admits the allegations in paragraphs 107 through 109 of UBoC's First Amended Counterclaim.

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COUNTERCLAIM ONE: INVALIDITY OF THE '007 PATENT

4. In paragraph 110 of Defendant's First Amended Counterclaim, UBoC has incorporated Paragraphs 93 through 100 of Defendant's First Amended Answer which are affirmative defenses by Defendant UBoC for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.

5. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 111 of UBoC's First Amended Counterclaim.

COUNTERCLAIM TWO: NON-INFRINGEMENT OF THE '007 PATENT

6 In paragraph 112 of Defendant's First Amended Counterclaim, UBoC has incorporated Paragraphs 93 through 100 of Defendant's First Amended Answer which are affirmative defenses by Defendant UBoC for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.

7. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 113 of UBoC's First Amended Counterclaim.

COUNTERCLAIM THREE: INVALIDITY OF THE '868 PATENT

8. In paragraph 114 of Defendant's First Amended Counterclaim, UBoC has incorporated Paragraphs 93 through 100 of Defendant's First Amended Answer which are affirmative defenses by Defendant UBoC for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.

9. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 115 of UBoC's First Amended Counterclaim.

COUNTERCLAIM FOUR: NON-INFRINGEMENT OF THE '868 PATENT

10. In paragraph 116 of Defendants' First Amended Counterclaim, UBoC has incorporated Paragraphs 93 through 100 of Defendant's First Amended Answer which are affirmative defenses by Defendant UBoC for which Defendant has the burden of proof, and no response is required by Plaintiff/Counter-Defendant. However, in the event any response would be required by Plaintiff/Counter-Defendant, DataTreasury Corporation responds to each of the affirmative defenses contained in paragraphs 93 through 100 as denied.

11. Plaintiff/Counter-Defendant denies the allegations contained in paragraph 117 of UBoC's First Amended Counterclaim.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff/Counter-Defendant prays for judgment against Defendants/Counter-Plaintiffs as follows:

A. For judgment dismissing the counterclaims with prejudice;

B. For a declaration that this is an exceptional case, and an award to Plaintiff/Counter-Defendant of its costs and attorneys' fees incurred herein;

C. An award of the costs of this action; and

D. That Plaintiff/Counter-Defendant be awarded such other and further relief as the Court may deem just and proper, including all relief requested in Plaintiff's Complaint.

Respectfully submitted,

____________/S/______________________

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record, via CM/ECF, on the 17th day of April, 2007.

___________/S/______________________
Edward Lewis von Hohn